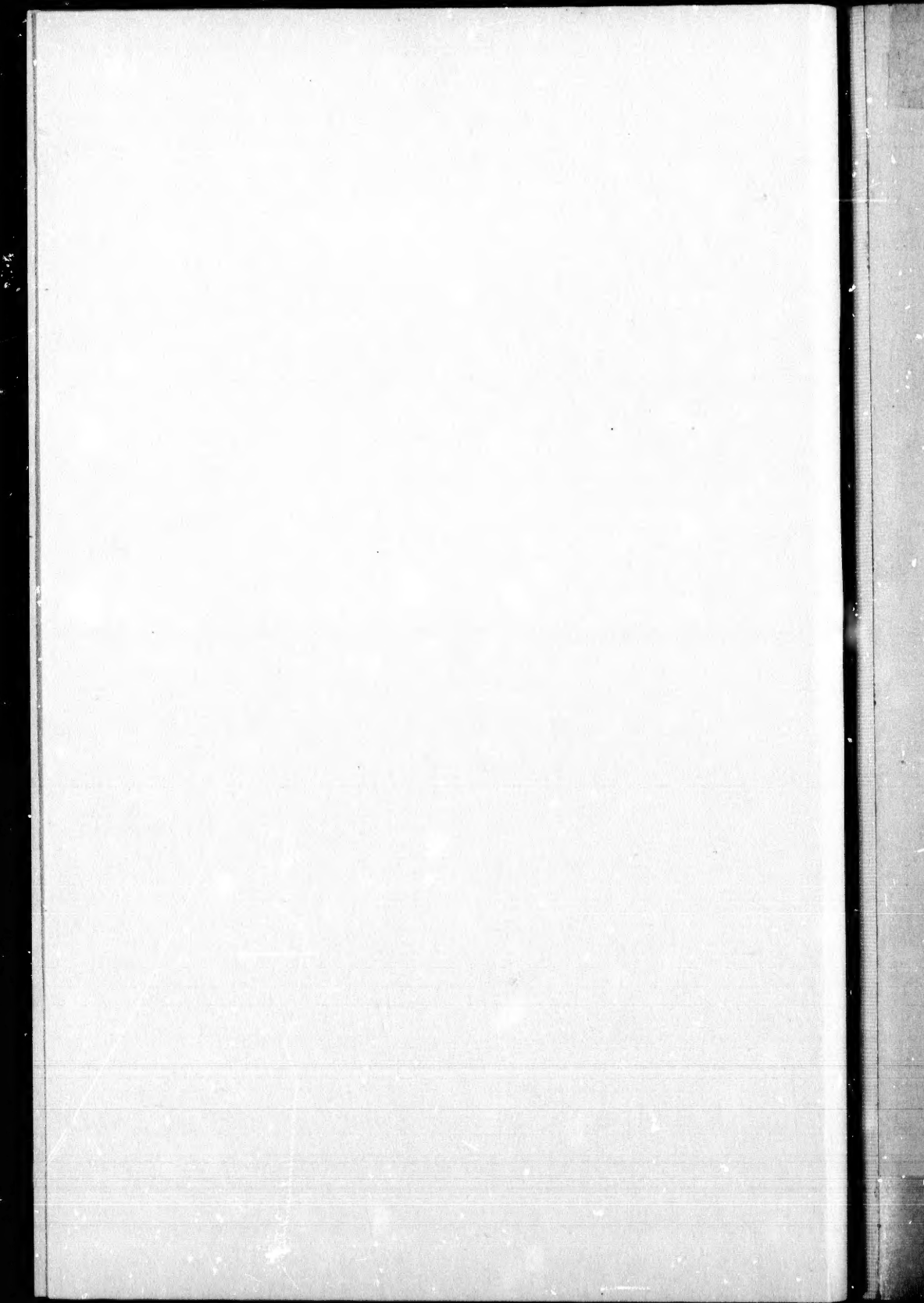




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AN OPEN LETTER TO THE HON. THE MINISTER OF  
FINANCE

IN RE

"TARIFF OF CUSTOMS."

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MONTREAL, April 14, 1879.

The Hon. S. L. TILLEY, C.B., etc., etc.

SIR,

I take leave to address you in this form the more effectually to bring under your notice certain grave objections, from a business point of view, which are here entertained both by importers and ocean carriers towards the sixth resolution of the tariff of Customs.

These objections are set forth somewhat hastily and imperfectly in the substance given herein of a couple of letters which were addressed by me, as one of his quondam supporters, to a prominent Conservative Member of Parliament; and more conclusively in an opinion of Counsel on the meaning and operation of the resolution prepared by the Hon. Mr. Abbott, to which I would bespeak your careful attention.

While thus deprecating at considerable length the enactment of this sixth resolution, I would take leave also to say that the resolutions numbered 1, 5, and 8, are all equally open to very grave objection from the same trade point of view. In truth, the whole scope of the tariff, both generally and in the adjustment of its details, is here regarded by many of us as being strongly inimical to the European importing merchant and to the trans-Atlantic carrier.

Please specially to note that the 5th, 6th and 8th resolutions will militate severely against goods brought from distant countries carried in ocean vessels, and will press lightly or not at all on land-carried goods coming from the United States. Also, that resolution 1st will work towards the same end inasmuch as the cost of European packing and packages is in fact and of necessity heavy, and is for the most part lost to the importer, whereas the equivalent expenses on goods purchased in the United States are light.

Resolution 5 requires an importer to pay duty on the full first cost of certain damagable goods (crockery, etc.) unless whatever damage may have occurred is found to be in excess of 25 per cent. He may thus lose one-fourth of his importation by no fault of his own, and be made to pay duty on the amount of that loss as well as on the \$75 worth which he receives in a saleable condition. Further, even when the loss amounts to 25 per cent. and over he must make his claim within "three days of landing" in this case,—a well nigh impossible condition; and in another case under resolution 8, within ten days;—otherwise the Customs will, in both cases, keep his money. An importer is supposed to be bound to the Customs for all time "his heirs and assigns for ever,"—the Customs is bound to the importer for three days and ten days respectively! All this bears very much the aspect of legalized extortion if not of downright robbery.

Note also that the repressive effects of resolutions 1, 5 and 6 become intensified in respect of low-priced bulky goods, and when applied in connection with duties which run up to 30 per cent. in lieu of duties ranging from 17½ per cent. downwards.

Take as an example their effect on the before-mentioned article of crockery, which has hitherto furnished no inconsiderable share of those outward cargoes that are so essential an element to the European carrying trade, and without which it is impossible to induce tonnage to seek Canadian ports. For years back this paucity of outward freight has

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been the chief obstacle in the way of a largely increased shipping trade *via* the St. Lawrence.

The import duties on crockery have been nominally advanced to 20 per cent. on china ware, to 25 per cent. on brown ware, and to 30 per cent. on yellow and white ware, while in reality under the operation of these resolutions I suppose the old  $17\frac{1}{2}$  per cent. duty is at least doubled on the low-priced goods.

It is scarcely worth troubling you with the china ware. It is an article of luxury, the importations of which are hardly over one-tenth in value, and probably not over one-fiftieth in bulk of those of earthenware proper; it is thus of small moment as regards either the consumer, the importer, or the carrier.

It is far otherwise with crockery proper. From some authentic figures lately published in the newspapers I gather that \$100 worth foreign value of white ware will cost on importation, as follows :—

|                                              |      |
|----------------------------------------------|------|
| For packages (often as much as \$17) .....   | \$12 |
| For inland freight and transit charges ..... | 8    |
| For ocean freight .....                      | 13   |
| For petties .....                            | 2    |

The cost laid down in the merchant's warehouse here  
is thus..... \$35  
per \$:00 of first cost in Europe.

If the breakage be taken at the low average of 5 per cent. the importer will thus have \$95 worth of goods at a cost of \$40 as for breakage and import charges; but if the breakage be up to the minimum of resolution 5 he will then have but \$75 worth of goods at a cost of \$60 for these charges. The mere cost of importation will thus range from 42 per cent., with a low average of breakage, up to 80 per cent. with the minimum breakage contemplated under resolution 5th.

And now as to the proposed duties assessable on this quantity of white ware of the first cost of \$100; they are :

|                                               |         |
|-----------------------------------------------|---------|
| Duty on the European value .....              | \$30.00 |
| Do. packages, under resolution 1st.....       | 3.60    |
| Do. inland charges, under resolution 6th..... | 2.40    |
|                                               | <hr/>   |
| Making a duty of.....                         | \$36.00 |

as leviable on \$95 worth of goods, or on \$75 worth of goods, as the case may be,—being a range of from 38 per cent. up to 48 per cent. for duty alone, under the operation of these resolutions.

You can readily understand how well nigh impossible it will be to continue an importing business in wares, the mere charges on which for freights, breakages and duties may run from 80 per cent. up to as high as 128 per cent. of the first cost in Europe.

Under resolution 4th and elsewhere in the tariff there is offered a discrimination amounting to a bounty in favor of importations of tea and sugar when shipped from the East and West Indies, although these commodities so shipped have been, and probably will be, for the most part brought to Canada through the United States, thereby building up the shipping and importing trade of foreign ports. Are Canadian importers, who during long years have brought their European goods direct into Canadian ports, to have no such favors shown them? Are Canadian shipowners, who have carried these goods, and have done so much to make the trade of Canada what it is, to be thus driven into other trades? Are these home interests to be denied even-handed justice? This European importing trade, together with the tonnage which is dependant on it and is essential to its success,—these two home interests which are thus being repressed and legislated against, are vastly more important to the country's welfare than all the manufacturing interests and all the East and West Indian importing interests combined. Do they merit no consideration save to be legislated out of existence?

I trust that you may be induced to give those questions the reconsideration which their importance merits. Looked at from all points of view this tariff can hardly fail to give a

except when imported from Great  
5 Britain and Ireland

severe blow to ocean tonnage and to European trade *via* the St. Lawrence;—and needlessly so, either from a revenue or from a protection stand point.

With many apologies for thus troubling you,

I remain,

With high regard,

Your obdt. servant,

DAVID A. P. WATT.

Resolution sixth reads as follows:—

*Resolved*, That it is expedient to provide that in determining the suitable [dutyable] value of merchandize, there shall be added to the cost or the actual wholesale price or fair market value at the time of exportation in the principal markets of the country from whence the same has been imported into Canada, the cost of inland transportation, shipment and trans-shipment, with all the expenses included, from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made, either *in transitu* or direct to Canada.

Notice of a proposed amendment has been given which will exclude Great Britain from its operation, and will to that extent limit the area within which its mischievous effects will be felt. It is also alleged that "the vessel" may not mean the trans-Atlantic vessel merely, but the coasting and channel vessel as well,—which interpretation would still further limit the area of mischief, but only to introduce new anomalies; goods purchased in St. Petersburg or Rotterdam would then pay duty on transit freight to and trans-shipping charges in the shipping port of (say) Antwerp if sent thence by railway, and no such duty if sent thence by water.

For purposes of comparison I append the clause of the Act of 1870, the phraseology of which has been imported into resolution 6th, while its meaning and purpose have been inverted. It is contained in 33 Vic., Cap. 9, Sec. 10, and reads:—

"Subject etc.

vide § 61 & 317 of the Statutes



The value for duty of goods on which an *ad valorem* duty of Customs is imposed, imported into Canada by sea, shall be the actual value of such goods at the last place at which they are purchased ;

—and the value of such goods, if imported from the United States by land or inland navigation, shall be the actual value of such goods at the last place at which they are purchased for importation into Canada, and whence they were directly conveyed without change of package to Canada ;

—and whatever be the country from which the goods are imported, or in which they are purchased, such value shall be ascertained by adding to the value of such goods at the place of growth, production, or manufacture, the cost of transportation, whether by land or water, and of shipment and transshipment with all expenses included, from the place of growth, production, or manufacture, to the place where the goods are purchased ,

—and if they are purchased in the United States, thence to the place whence they are directly conveyed to Canada as aforesaid ;—

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#### CORRESPONDENCE.

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Montreal, March 27th, 1879.

MY DEAR SIR,

As agreed, I have spent some little time over the sixth Tariff resolution with a view to see whether it could be put so as to make business under it equitable and workable. This I believe to be impossible. So far as appears to me, it can as a whole work nothing but unequal injustice, both to the honorable merchant and to the Canadian carrier.

Similar legislation has already been attempted in Canada, the *raison d'être* for it then being to encourage direct importations by preventing the entry at our Custom Houses, at the foreign price, of foreign goods brought to such ports as New

York, seeking a market. It in effect required that on all such indirect importations the value for duty should be the foreign price plus the freight and charges to New York. And this was a reasonable proposition. Foreign goods purchased in or consigned from New York, should be valued for duty at the New York market price, and would in fact be always so valued when, as not unfrequently happens, that price was lower than the foreign one; and this principle is set forth and adopted by resolution 7th.

This legislation would seem to have been abandoned so far as regards European goods, and the reasons which required this abandonment have since acquired tenfold more force, by the great changes which have taken place in the course of trade and by the keen competition everywhere existing in all branches of business.

There is now no nook or corner in Europe to which a Canadian may now carry his money and buy goods at a price low enough to compensate him for the risk, trouble and expense of going there. On the contrary, the "principal markets" are almost always the cheapest ones, and attempts to go elsewhere would raise prices and even look suspicious.

Nor is there now in Europe any such variety of usage or custom in regard of charges, packages, or transport, nor any such fluctuations in prices and in exchanges, in respect of goods imported into Canada, as prevails in the East, from whence F. O. B. prices, or rather C. I. F. prices, are the essential ones, the current quotations in these markets being in fact valueless to any one other than the initiated.

Competition amongst the manufacturers has also tended very much to equalise prices at all shipping centres, and to put all buyers on the same footing. A Dundee manufacturer, for instance, will sell his goods F. O. B. in Dundee, Glasgow, Leith, Hull, Liverpool and London at one and the same price.

The competition among carriers has worked in the same direction, but in a more complex form—too complex to put in a short writing. I may say, however, generally, that the Atlantic lines of steamers will now contract to carry goods



from the leading seaports in Britain and on the Continent to the leading cities of Canada and the United States, and that the freight charge from any shipping point to any destination is substantially the same, no matter from what port in Europe the steamer sails, or to what port of destination on this side. Paris goods for St. Louis, in the Western States, have without doubt been carried by the Allan vessels from Liverpool to Halifax *en route* during the present winter.

You can thus see how unequally this resolution will press, how it will interfere with merchants in buying goods and in choosing conveyance for them, and to how many shifts merchants will be put to avoid taxation under it.

An apt case occurred yesterday. A dry goods importer, Mr. Johnston, entered a line of London goods which he had imported *via* Liverpool and Halifax by the Canadian steamer. His invoices were of course made in London, and the Customs of necessity required him to declare the "cost of inland transportation with all expenses included, &c., &c.," which he did, and paid duty thereon. Had he shipped these goods from London to New York, and thence to Montreal, which he might have done at the same through rate of freight (and will in future do without doubt), no such impost could have been levied on him. In the case of goods from more distant points, the imposition would of course be all the more onerous, and the discrimination against certain routes and in favor of others, all the greater.

In these cases you will notice that not only has the original intention—to encourage shipments by our own vessels and into our own ports—been lost sight of and nullified, but that a premium is now, in effect, given to importations made through foreign ports and over foreign lines of railway.

A suggestion will doubtless occur to you that the resolution should be altered so as to cover cases like the foregoing, by adding to the invoice value for duty the charges in and the freight from New York to the port of entry. But consider that Portland must also be included with the other U. S. ports, and then if Portland, how could Halifax be left out?

Then again, if this cost of inland transport be added to the goods in transit through the U. S., why not also to goods purchased there? Again, if inland freights and charges be added, why not ocean freights and charges? This would bring you to the principles upon which *ad valorem* duties are founded, and upon which they have been worked in Britain, viz., that the value for duty should be the "fair market value" at the port of entry,—a ten per cent. duty meaning in fact that one-tenth of every importation is reserved for the State: and in this event, what would become of the principle of encouraging direct importations from distant points?

In fine, I think you may accept as axioms, (1) that the course of business during late years has now nullified any possible advantage which might at one time have accrued to Canadian trade from such an enactment as resolution sixth; (2) that on the contrary its action would now be vexatious and oppressive on Canadian merchants and on Canadian carriers; (3) that the revenue (small in itself) would be uncertain, unequally borne and costly to collect; and (4) that this amount of revenue could be more easily and justly obtained by a square addition to the *ad valorem* rate.

It seemed needful that I should enter somewhat at length into the importer's case as being very much mixed up with that of the ocean carrier. Relief to the latter alone is however attainable by an alteration in the wording of the clause, without affecting its principle. But it is surely a fair question for the consideration of the Minister whether he should not go further than this and give some such protective advantage to the Canadian route as was long ago contemplated and attempted.

Yours very truly,

DAVID A. P. WATT.

Montreal, March 29, 1879.

MY DEAR SIR,

Having gone over my letter to you *in re* Resolution Sixth, Mr. — thinks that its unjust action on the Canadian carrier has not been strongly enough insisted on. Let me therefore supplement my statement by pointing out to you that the cost of putting such traffic as Mr. Johnston's London consignment in and through Liverpool and on board of the Canadian steamer there has to be borne by the joint carriers out of the through rate of freight. Any imposition of duty on the cost of such inland freight is therefore a direct tax on these joint carriers; a tax which in the present case the ocean steamer, the Intercolonial, and the Grand Trunk will have to divide amongst themselves,—and one from which their competitors on the New York route are freed.

Let me instance also the unfairness and inequality of the impost in the case of low-priced goods, assessable at a high rate of duty and subject to dear inland freight on account of their bulk or weight. On these the duty would press heavily. Whereas on goods subject to a low rate of duty, and on high-classed, expensive goods, it would press lightly; and on free goods not at all.

There is also a very serious difficulty arising out of the complex character of the Tariff itself, and of the very numerous rates of duty leviable under it. "Inland transportation" with all expenses included is not as a usual thing chargeable *ad valorem*, but mostly, if not universally, according to bulk, or weight, or both. How, then, is it feasible or possible to divide up these charges in proper proportion among many different values subject to diverse rates of duty? If duty is to be so levied, then the rate should be fixed by the resolution just as it is fixed in the first resolution in respect of packages in certain cases.

You will notice, too, that it is "the dutiable *value* of merchandize" which is to be written up by the cost of inland



transportation ; goods paying specific duties are therefore exempted from this impost !

There had been so much discussion over this resolution, and so many conflicting opinions as to its true meaning, that it was concluded to take a legal opinion on its bearing generally, but more particularly, first, as to whether the Collector was justified in levying duty on such inland freights, and, second, whether direct importations *via* New York were not exempt from such levy ?

Mr. Abbott answers yea to both questions ; he also so covers the resolution with ridicule that any further persistence in it would seem to be impossible. \* \* \* \* \*

It is certainly too bad that the whole foreign trade of the country should thus be worried and harried by ignorant and incompetent advisers.

Yours faithfully,

DAVID A. P. WATT.

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### COUNSEL'S OPINION.

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QUERIES *in re.* 6TH RESOLUTION OF THE TARIFF OF CUSTOMS,  
FOR OPINION OF COUNSEL, THE HON. J. J. C. ABBOTT.

A certain line of goods was purchased by a Canadian Merchant, Mr. James Johnston, in London, and shipped from thence to Canada. The route chosen was by rail to Liverpool, thence by Allan Steamer to Halifax, and thence by rail to destination.

On being offered for entry at Customs, the Collector required the cost of inland freight from London together with the Liverpool trans-shipping charges to be declared, and

he levied duty on that sum as well as on the London value. His warrant for so doing being the 6th resolution.

Was the Collector justifiable in demanding this extra amount of duty? and if yea—

Suppose the same line of goods had been shipped by direct steamer from London to New York (instead of *via* Liverpool to Halifax), and thence by rail or otherwise to destination in Canada, to what extent would the London value need to be written up in respect of inland or other freights or charges to meet the requirements of the Resolution?

MONTREAL, 29th March, 1879.

#### THE DUTY ON COST OF INLAND TRANSPORTATION.

I have carefully looked into the questions submitted to me in this matter, and the following are my views upon them:—

The 6th resolution of the Tariff as it stands is confused in its structure, and difficult of comprehension. It appears to be intended to provide for the addition to the cost of the purchase of goods, the cost of inland transportation to the point of shipment, and the expenses of such shipment. And although the resolution is short, there are nearly as many difficult questions arising upon it, as there are lines contained in it. It will suffice for present purposes to point out the chief among these difficulties.

1st. What place or what market in the country is to be deemed the market, the value at which shall be regarded as the fair market value, at the time of exportation?

2nd. From what place is the expense of inland-transportation to the point of shipment to be calculated?

3rd. What is meant by the words, "either in transitu or direct to Canada"?

The language of the Law as to dutiable value is as follows — "The cost or the actual wholesale price, or the fair market value in the principal markets of the country from whence the same has been imported into Canada." This language gives three alternative modes of ascertaining the dutiable value; the two first of which are barely distinguishable from each other. If "the cost" means the cost to the importer, it is nearly identical with "the actual wholesale price," a distinction only arising between them if the article is bought at its retail price. If "the cost" means the cost of production or manufacture with the expense of importation to the place of purchase added, as seems to have been contemplated by the act of 1870, it might produce a very different result from either of the other modes of ascertaining dutiable value.

The third standard, namely, the fair market value in the principal markets of the country, *ex quo*, &c., does not imply that the value at any one principal market shall be held to be the standard of dutiable value, but the value at the principal markets, which seems to involve the necessity for a broader view of the question of value, and points to an average of the value of the article in the principal markets of the country from which it is imported.

But, assuming that "the cost" and "the actual wholesale price" are practically convertible terms, they and "the fair market value" all include the cost of transportation and other costs of importation of the article purchased, from its place of production to the place where the Canadian importer buys it.

Unless, therefore, (first question) the dutiable article was produced at the place of purchase, say in London, there is no ground whatever in this resolution for the demand of the Collector to have the cost of transport from London to Liverpool added to the value in London, because the resolution does not authorize the addition of the cost of transport to the place of shipment from the place of purchase, but from the place of production.



If, therefore, the article had been produced in China, and purchased by the Canadian importer in London, the resolution would require the cost of transportation from China to London to be added to the London value, although, of course, that value must already form part of the value in London ; so that the cost of transportation from China to London would be comprised in the dutiable value twice over, which is absurd ; yet the language of the resolution is so explicit that it cannot be misconstrued, although it seems difficult to believe that the Legislature really intended to create such an anomaly.

If it be contended, as has been contended by the Collector at Montreal, that the resolution only requires the addition of the cost of transportation from the place of purchase to the place of shipment, it must be remarked that there is no process of reasoning by which the resolution can be strained to mean the place where the Canadian importer buys the goods, unless it happens that that place is also the place where the goods are grown, produced, or manufactured.

As to the question, whether if the goods had been shipped to Canada from the port of London *via* New York, any addition would have to be made to the London value, I am of opinion that no addition would require to be so made. The point at which the transportation ceases, the cost of which is to be added to the value for duty, seems to be the point at which the last shipment by water is made, by means of which the goods are expected to reach Canada. In this instance, again, the language of the clause is singularly ambiguous, but it seems to be intended that the point of shipment in a vessel in a port of the country *ex quo* is the point at which the cost of inland transportation, to be computed in the dutiable value, is to cease. And two modes are evidently pointed at by which the goods can afterwards reach this country, viz., directly from the port of shipment, and indirectly, *via* a foreign port on this side of the Atlantic, reaching Canada from thence by land, and the *transitus* spoken of in the clause must therefore mean the carriage of the goods across the ocean.

It is scarcely necessary to point out, that, although the

meaning thus stated is probably the meaning intended to be conveyed by the words "*in transitu*," used in the resolution, they really possess no such distinctive signification, as they apply equally to a shipment direct to Canada and to a shipment to Canada *via* a foreign port.

I should therefore answer your questions, as follows :—

1. In my opinion the Collector was justifiable in demanding the addition of the cost of transportation from London to Liverpool, if London was the place of produce, growth, or manufacture of the article imported, but not otherwise.

2. I am of opinion, that if the same article had been shipped by steamer direct from London to New York, and thence to Canada over land, there would be no addition to the value for duty by reason of such land transport.